

Eric S. Pennington (ESP-4416)  
Eric S. Pennington, P.C.  
One Gateway Center, Suite 105  
Newark, New Jersey 07102  
Attorneys for Defendants

09-6331(PGS)

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JACOB'S LIMOUSINE  
TRANSPORTATION, INC.,

Plaintiff,

vs.

CITY OF NEWARK; CITY CLERK OF THE  
CITY OF NEWARK, in his official capacity,  
TAXICAB AND LIMOUSINE  
COMMISSION OF THE CITY OF  
NEWARK, TAXICAB DIVISION OF THE  
CITY OF NEWARK, and MANAGER OF  
THE CITY OF NEWARK, in his official  
capacity, and CITY CLERK OF THE CITY  
OF NEWARK, in his official capacity,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
ESSEX COUNTY LAW DIVISION

DOCKET NO. ESX-L-7321-09

CIVIL ACTION

**NOTICE OF REMOVAL**

TO: The Judges of the United States District  
Court for the District of New Jersey

The TAXICAB AND LIMOUSINE COMMISSION OF THE CITY OF  
NEWARK, TAXICAB DIVISION OF THE CITY OF NEWARK, and MANAGER OF THE  
CITY OF NEWARK, in his official capacity (the "Defendants") named as defendants herein  
file this Notice to Remove this action from the Superior Court of New Jersey, Law Division,  
Essex County, to the United States District Court for the District of New Jersey, and  
respectfully represents as follows:

1. On or about September 15, 2009, plaintiff filed a Complaint in the Superior Court of New Jersey, Law Division, Essex County, against the City of Newark and others asserting, *inter alia*, a federal claim under the Civil Rights Act 42 U.S.C. § 1983, and the United States Constitution. A copy of this Complaint is attached hereto and made a part hereof as Exhibit A.

2. The City of Newark first received a copy of the initial pleading in this action on or about October 26, 2009, when the Complaint was delivered at the City of Newark's City Clerk Department, in Newark, New Jersey. Our office represents the named Defendants in this matter; however, proper service has not yet been properly effected on the Taxicab and Limousine Commission of the City of Newark, Taxicab Division of the City of Newark, and Manager of the City of Newark.

3. As of this date, no defendant has filed a responsive pleading in the action commenced by plaintiff in the Superior Court of New Jersey, Law Division, Essex County, and no other proceedings have transpired in that action.

4. Defendants seek removal of this action pursuant to 28 U.S.C. § 1441(b) on the grounds that plaintiff's Complaint asserts a federal claim under the Civil Rights Act 42 U.S.C. § 1983. The District Court has jurisdiction over these claims under 28 U.S.C. § 1331.

**WHEREFORE**, defendants Taxicab and Limousine Commission of the City of Newark, Taxicab Division of the City of Newark, and Manager of the City of Newark pray that the above-captioned matter, now pending against them in the Superior Court of New Jersey, Law Division, Essex County, be removed therefrom to the United States District Court for the District of New Jersey.

Eric S. Pennington, P.C.  
Attorneys for Defendant

By: 

Darryl Austin

Dated: December 14, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that on this day I caused to be served by overnight mail a copy of the within Notice of Removal as well as a Notice of Filing Notice of Removal, pursuant to 28 U.S.C. § 1446, upon:

Jeffrey Kantowitz, Esq.  
Day Pitney LLP  
P.O. Box 1945  
Morristown, New Jersey 07962

Clerk, Essex County  
Civil Customer Service  
Hall of Records, Room 201  
465 Dr. Martin Luther King Blvd.  
Newark, NJ 07102

Eric S. Pennington, P.C.  
Attorneys for Defendant

By: 

Darryl Austin

Dated: December 14, 2009



For appropriate action and follow up  
Original to Corporation Counsel  
Copy to file

*haw*

**-DAY PITNEY LLP**

MAIL TO) P.O. BOX 1945, MORRISTOWN, N.J. 07962-1945  
DELIVERY TO) 200 CAMPUS DRIVE, FLORHAM PARK, N.J. 07932-0950  
(973) 966-6300

**ATTORNEYS FOR Plaintiff Jacob's Limousine Transportation, Inc.**

**JACOB'S LIMOUSINE TRANSPORTATION, INC.,**

Plaintiff,

**SUPERIOR COURT OF NEW JERSEY**

**LAW DIVISION: ESSEX COUNTY**

**DOCKET NO. ESX-7321-09**

v.

Civil Action

**CITY OF NEWARK, et al.**

**SUMMONS**

Defendant.

*From The State of New Jersey*

*To The Defendant Name Above: CITY CLERK OF THE CITY OF NEWARK*

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-97L, Trenton, NJ 08625. A \$135.00 filing fee payable to the Treasurer, State of New Jersey, and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Jennifer M. Perez

Jennifer M. Perez,

Acting Clerk of the Superior Court

DATE: September 23, 2009

Name of Defendant to be Served: CITY CLERK OF THE CITY OF NEWARK

Address of Defendant to be Served: City Hall, 920 Broad St., Room 306, Newark, NJ 07102

**ATLANTIC COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division, Direct Filing  
1201 Bacharach Blvd., First Fl.  
Atlantic City, NJ 08401  
LAWYER REFERRAL  
(609) 345-3444  
LEGAL SERVICES  
(609) 348-4200

**BERGEN COUNTY:**

Deputy Clerk of the Superior Court  
Case Processing Section, Room 119  
Justice Center, 10 Main St.  
Hackensack, NJ 07601-0769  
LAWYER REFERRAL  
(201) 488-0044  
LEGAL SERVICES  
(201) 487-2166

**BURLINGTON COUNTY:**

Deputy Clerk of the Superior Court  
Central Processing Office  
Attn: Judicial Intake  
First F., Courts Facility  
49 Rancocas Road  
Mt. Holly, NJ 08060  
LAWYER REFERRAL  
(609) 261-4862  
LEGAL SERVICES  
(609) 261-1088

**CAMDEN COUNTY:**

Deputy Clerk of the Superior Court  
Civil Processing Office  
1st Fl., Hall of Records  
101 S. Fifth Street  
Camden, NJ 08104  
LAWYER REFERRAL  
(609) 964-4520  
LEGAL SERVICES  
(609) 964-2010

**CAPE MAY COUNTY:**

Deputy Clerk of the Superior Court  
Central Processing Office  
9 N. Main Street  
Box DN-209  
Cape May Court House, NJ 08210  
LAWYER REFERRAL  
(609) 463-0314  
LEGAL SERVICES  
(609) 465-3001

**CUMBERLAND COUNTY:**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
Broad & Fayette Sts.  
P.O. Box 615  
Bridgeton, NJ 08302  
LAWYER REFERRAL  
(609) 692-6207  
LEGAL SERVICES  
(609) 451-0003

**ESSEX COUNTY:**

Deputy Clerk of the Superior Court  
237 Hall of Records  
465 Dr. Martin Luther King, Jr. Blvd.  
Newark, NJ 07102  
LAWYER REFERRAL  
(973) 622-6207  
LEGAL SERVICES  
(973) 624-4500

**GLOUCESTER COUNTY:**

Deputy Clerk of the Superior Court  
Civil Case Management Office  
Attn: Intake  
First Fl., Court House  
1 North Broad Street, P.O. Box 129  
Woodbury, NJ 08096  
LAWYER REFERRAL  
(609) 848-4589  
LEGAL SERVICES  
(609) 848-5360

**HUDSON COUNTY:**

Deputy Clerk of the Superior Court  
Superior Court, Civil Records Dept.  
Brennan Court House - 1st Floor  
583 Newark Ave.  
Jersey City, NJ 07306  
LAWYER REFERRAL  
(201) 798-2727  
LEGAL SERVICES  
(201) 792-6363

**HUNTERDON COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
65 Park Avenue  
Flemington, NJ 08862  
LAWYER REFERRAL  
(908) 735-2611  
LEGAL SERVICES  
(908) 782-7979

**MERCER COUNTY:**

Deputy Clerk of the Superior Court  
Local Filing Office, Courthouse  
175 South Broad St., P.O. Box 8068  
Frederick, NJ 08650  
LAWYER REFERRAL  
(609) 585-6200  
LEGAL SERVICES  
(609) 695-6249

**MIDDLESEX COUNTY:**

Deputy Clerk of the Superior Court  
Administration Building  
Third Floor  
1 Kennedy Sq., P.O. Box 2633  
New Brunswick, NJ 08903-2633  
LAWYER REFERRAL  
(732) 828-0055  
LEGAL SERVICES  
(732) 249-7600

**MONMOUTH COUNTY:**

Deputy Clerk of the Superior Court  
71 Monument Park  
P.O. Box 1262  
Court House, East Wing  
Freehold, NJ 07728-1262  
LAWYER REFERRAL  
(732) 431-5544  
LEGAL SERVICES  
(732) 866-0020

**MORRIS COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
30 Schuyler Pl., P.O. Box 910  
Morristown, NJ 07960-0910  
LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(973) 285-6911

**OCEAN COUNTY:**

Deputy Clerk of the Superior Court  
Court House Room 119  
118 Washington Street  
Toms River, NJ 08754  
LAWYER REFERRAL  
(732) 240-3666  
LEGAL SERVICES  
(732) 341-2727

**PASSAIC COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division  
Court House  
77 Hamilton St.  
Paterson, NJ 07505  
LAWYER REFERRAL  
(973) 278-9223  
LEGAL SERVICES  
(973) 345-7171

**SALEM COUNTY:**

Deputy Clerk of the Superior Court  
92 Market St., P.O. Box 18  
Salem, NJ 08079  
LAWYER REFERRAL  
(609) 935-5629  
LEGAL SERVICES  
(609) 964-2010

**SOMERSET COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division Office  
New Court House, 3rd Fl.  
P.O. Box 3000  
Somerville, NJ 08876  
LAWYER REFERRAL  
(908) 685-2323  
LEGAL SERVICES  
(908) 231-0840

**SUSSEX COUNTY:**

Deputy Clerk of the Superior Court  
Sussex County Judicial Center  
43-47 High St.  
Newton, NJ 07860  
LAWYER REFERRAL  
(973) 267-5880  
LEGAL SERVICES  
(973) 383-7400

**UNION COUNTY:**

Deputy Clerk of the Superior Court  
1st Fl., Court House  
2 Broad Street  
Elizabeth, NJ 07207-6073  
LAWYER REFERRAL  
(908) 353-4715  
LEGAL SERVICES  
(908) 354-4340

**WARREN COUNTY:**

Deputy Clerk of the Superior Court  
Civil Division Office  
Court House  
Belvidere, NJ 07823-1500  
LAWYER REFERRAL  
(973) 267-5882  
LEGAL SERVICES  
(908) 475-2010

ESSEX COUNTY CIVIL DIVISION  
SUPERIOR COURT OF NJ  
445 MARTIN LUTHER KING JR BLVD  
NEWARK NJ 07102

COURT TELEPHONE NO. (973) 693-6241  
COURT HOURS

TRACK ASSIGNMENT NOTICE

DATE: SEPTEMBER 15, 2009  
RE: JACOBS LIMOUSINE TRANSPORTATION VS CITY OF NEWARK  
DOCKET: ESX L 007321 05

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE FACTUAL JUDGE ASSIGNED IS: HON MICHAEL J. NELSON

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002  
AT: (973) 693-6934 EXT 6468.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:15A-1.

ATTENTION:

ATT: JEFFREY KANTOWITZ  
DAY PITNEY LLP  
PO BOX 1945  
MORRISTOWN NJ 07962-1945

JUDCV

DAY PITNEY LLP

(MAIL TO) P.O. BOX 1945 MORRISTOWN, N.J. 07962-1945  
(DELIVERY TO) 200 CAMPUS DRIVE, FLORHAM PARK, N.J. 07932-0950  
(973) 966-6300

ATTORNEYS FOR Plaintiff Jacob's  
Limousine Transportation, Inc.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ESSEX COUNTY  
DOCKET NO. ESX- 7321-09

JACOB'S LIMOUSINE  
TRANSPORTATION, INC.,

Plaintiff,

v.

CITY OF NEWARK, CITY CLERK OF  
THE CITY OF NEWARK, in his  
official capacity, TAXICAB AND  
LIMOUSINE COMMISSION OF THE  
CITY OF NEWARK, TAXICAB  
DIVISION OF THE CITY OF NEWARK,  
and MANAGER OF THE CITY OF  
NEWARK, in his official  
capacity, and CITY CLERK OF THE  
CITY OF NEWARK, in his official  
capacity,

Defendants.

:

:

Civil Action

:

COMPLAINT

:

:

:

SEP 15 2009



Plaintiff Jacob's Limousine Transportation, Inc. (JLT), a corporation of the State of New Jersey, with offices and a place of business located at 422 South 12<sup>th</sup> Street, City of Newark, County of Essex, State of New Jersey, by way of Complaint against defendants City of Newark, City Clerk of the City of Newark, in his official capacity, Taxicab and Limousine Commission of the City of Newark, Taxicab Division of the City of Newark, and Manager of the Taxicab Division of the City of Newark, in his official capacity, says:

FIRST COUNT

1. Plaintiff Jacob's Limousine Transportation, Inc. (JLT), is a corporation of the State of New Jersey, with offices and a place of business located at 422 South 12th Street, City of Newark, County of Essex, State of New Jersey.

2. Defendant City of Newark ("City" or "Newark") is a municipal corporation of the State of New Jersey, with offices located at Newark City Hall, 920 Broad Street, City of Newark, County of Essex, State of New Jersey, and is authorized and duly bound to act under the ordinances and laws of the City of Newark, under the Constitution and laws of the State of New Jersey, and under the laws and Constitution of the United States of America.

3. On information and belief, defendant City Clerk of the City of Newark ("City Clerk"), in his official capacity, is a duly appointed employee of the City of Newark, with offices located at Newark City Hall, 920 Broad Street, City of Newark, County of Essex, State of New Jersey, and is authorized and duty bound to act under the ordinances and laws of the City of Newark, under the Constitution and laws of the State of New Jersey, and under the laws and Constitution of the United States of America.

4. On information and belief, defendant Taxicab and Limousine Commission of the City of Newark ("TLC" or "Commission") is a duly organized commission within the Police Department of the City of Newark, with offices located at Newark City Hall, 920 Broad Street, City of Newark, County of Essex, State of New Jersey, and is authorized and duty bound to act under the ordinances and laws of the City of Newark, under the Constitution and laws of the State of New Jersey, and under the laws and Constitution of the United States of America.

5. On information and belief, defendant Taxicab Division of the City of Newark ("Division") is a duly organized division of and/or within the Police Department of the City of Newark, with offices located at Newark City Hall, 920 Broad Street, City of Newark, County of Essex, State of New Jersey, and

is authorized and duty bound to act under the ordinances and laws of the City of Newark, under the Constitution and laws of the State of New Jersey, and under the laws and Constitution of the United States of America.

6. On information and belief, defendant Manager of the Taxicab Division of the City of Newark, in his official capacity ("Manager") is a duly appointed employee and executive officer and/or official of the Taxicab Division and/or of the Commission, with offices located at Newark City Hall, 920 Broad Street, City of Newark, County of Essex, State of New Jersey, and is authorized and duty bound to act under the ordinances and laws of the City of Newark, under the Constitution and laws of the State of New Jersey, and under the laws and Constitution of the United States of America.

7. Section 34:2-1, "Autocabs, Limousines and Livery Service," of the Code of the City of Newark ("Newark Code"), sets forth the requirements for operating and licensing autocabs, limousines, and livery service on any of the streets or public highways in the City of Newark, and defines "autocab license" to mean "a license issued for the vehicle by the Commission to the owner(s) of the autocab."

8. Section 34:2-2, "Autocab License and Certificate of Compliance Required," provides in subsection a that "[n]o person shall operate or permit and autocab owned or controlled by him or her to be operated as an autocab on the streets of the City of Newark without first obtaining an autocab license and a driver's license from the Division; a certificate of compliance from the City Clerk; and livery plates from the New Jersey Division of Motor Vehicles (DMV) if: (1) His or her principal place of business is in the city of Newark; (2) His or her base is in the city of Newark; or (3) The majority of his or her autocab business is in the City of Newark.

9. Section 34:2-2(b) requires that "[e]ach person operating an autocab within the City of Newark shall be affiliated and/or associated with a base."

10. A "base," which is defined by Newark Code section 34:2-1 to mean a "place of business from which autocabs are dispatched," or an autocab's principal place of business, "can only be located in those districts permitted by local zoning ordinances and shall not be combined with any residential property and/or any other businesses...[and] all [autocabs] shall be garaged and shall not be stored and/or parked on the streets of the City of Newark" under Newark Code section 34:2-3.

11. Newark Code section 34:2-5, "Insurance Required," sets forth the requirements for insurance in conjunction with the operation of an autocab or the issuance of an autocab license or Certificate of Compliance.

12. Newark Code section 34:2-5 prohibits the operation of an autocab or the issuance of any autocab license or Certificate of Compliance by the City Clerk until a complying insurance policy has been approved by Newark's Corporation Counsel, which names the City as an additional insured, and is filed with the City Clerk.

13. On information and belief, Newark's Code also requires that any business operating in Newark, including and auto, limousine, and/or livery service, obtain a general business license in order to conduct operations in the City of Newark.

14. Section 34:2-20, "Age of Vehicles; Removal From Service," provides in pertinent part: "When an autocab owner or operator first becomes licensed as an autocab in the City of Newark, his or her autocab shall not be more than forty-two (42) months of age. Any autocab licensed under this chapter shall be removed from service as an autocab when such vehicle shall have attained the age of seven (7) years."

15. Section 34:2-7, "Application Procedure; Information Required; Renewals," directs that an application for an autocab license shall be made by the owner, lessee, bailee or driver of the autocab and shall be filed with the Manager of the Division together with applicable fees.

16. Section 18 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., ("MLUL"), N.J.S.A. 40:55D-18, provides that the governing body of the municipality shall enforce the provisions of the MLUL and any ordinance or regulations made and adopted under its authority, and N.J.S.A. 40:55D-18 further provides that the governing body of the municipality may take such action to restrain or prevent the occupancy of buildings, structures, or land occupied or used in violation of the MLUL, or prevent any illegal act, conduct, business, or use in or about such premises.

17. Plaintiff has obtained zoning permission and authority to operate an autocab, limousine and livery service in Newark based upon development approvals, in accordance with Newark Code section 34:2-3, through site plan approval and variance relief, granted to it by the Zoning Board of Adjustment of the City of Newark ("NZBA") on July 28, 2001, which development approvals were memorialized by written resolution of the NZBA dated July 19, 2001 ("Resolution").

18. Plaintiff's efforts to obtain autocab licenses and Certificates of Compliance to operate an autocab, limousine and livery service in Newark have been thwarted and rejected by the defendants City of Newark, City Clerk, in his official capacity, TLC, Taxicab Division, and the Manager of the Taxicab Division, in his official capacity, and through their respective employees.

19. Plaintiff's efforts to obtain autocab licenses and Certificates of Compliance to operate an autocab, limousine and livery service in Newark, as required under the Newark Code have been rejected notwithstanding its preparedness to comply with the terms and requirements of the Newark Code.

20. Notwithstanding plaintiff's zoning approval for operation of its base, notwithstanding plaintiff's efforts and preparedness to obtain the necessary licenses to operate in auto, limousine, and livery service in the City of Newark, defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, and their respective employees, have allowed numerous other autocab, limousine, and livery services companies to operate in and on Newark's streets and highways without complying with, and in blatant violation of, the requirements of the Newark Code for the operation and licensing of autocab, limousine, and livery

services companies to operate in and on Newark's streets and highways.

21. On information and belief, defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, have allowed numerous other autocab, limousine, and livery services companies to operate in and on Newark's streets and highways for years, and have either licensed such companies, or allowed them to operate without licenses, despite these other autocab, limousine, and livery services companies not having proper zoning approval and not having complied with the zoning laws as required for the operation and licensing of autocab, limousine, and livery services companies under the Newark Code.

22. On information and belief, defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, have allowed numerous other autocab, limousine, and livery services companies to operate in and on Newark's streets and highways for years, and have either licensed such companies, or allowed them to operate without licenses, despite these other autocab, limousine, and livery services companies not having proper insurance and not having complied with the insurance requirements and laws as



required for the operation and licensing of autocab, limousine, and livery services companies under the Newark Code.

23. On information and belief, defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, have allowed numerous other autocab, limousine, and livery services companies to operate in and on Newark's streets and highways for years, and have either licensed such companies, or allowed them to operate without business licenses, despite these other autocab, limousine, and livery services companies not having business licenses and not having complied with the business licensing requirements and laws as required for the operation and licensing businesses in Newark, including autocab, limousine, and livery services companies, under the Newark Code.

24. Plaintiff has a right, interest, property interest, and expectation that the laws and ordinances of the City of Newark will be applied and enforced by the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity.

25. Plaintiff has a right, interest, property interest, and expectation that the laws and ordinances of the City of

Newark will be applied and enforced by the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, in an even-handed and non-discriminatory manner.

26. Plaintiff has a right, interest, property interest, and expectation that the laws and ordinances of the City of Newark will not be ignored or disregarded by the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity.

27. Plaintiff has a right, interest, property interest, and expectation that it will, is, and would be able to compete in a fair, legal, economic environment, and in a fair, legal manner regulated through the application and enforcement of the laws and ordinances of the City of Newark.

28. Plaintiff has a right, interest, property interest, and expectation that it will be allowed to operate an autocab, limousine, and livery service business on the same terms and conditions as defendants have allowed and permitted other entities to operate similar businesses.

29. As a direct and proximate result of the actions and inactions of the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, and their respective employees, plaintiff has been harmed and suffered damages, and continues to be harmed and suffer damages, totaling in excess of forty million dollars, insofar as plaintiff has been discriminated against by the defendants and prevented from obtaining the necessary licenses to operate an autocab, limousine and livery service company on and in the streets and highways of the City of Newark, all the while its competitors and numerous other autocab, limousine, and livery service companies have been allowed and permitted to operate in and on the streets and highways of Newark with and under licenses and Certificates of Compliance issued by the defendants.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants as follows:

1. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to issue cease and desist orders immediately to all non-complying autocab, limousine, and livery service companies operating in or on the streets of Newark;

2. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to revoke immediately any certificates of occupancy, whether temporary or permanent, as well as any licenses, permits, approvals, or any other Certificates of Compliance of operation for all autocab, limousine, and livery services operating in Newark not in compliance with the Newark Code;

3. For attorney's fees and costs of suit;

4. For such other relief as may be deemed just and equitable.

#### SECOND COUNT

1. Plaintiff repeats the allegations contained in the First Count of the Complaint, as if set forth at length herein.

2. The defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, have allowed numerous autocab, limousine, and livery service companies to operate and to continue to operate for months and in some cases years, in and on the streets and highways of the City of Newark, despite their knowledge that

such companies have not and were not complying with the requirements for such operations under the Newark Code.

3. Upon learning of the actions and inactions of the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, to allow numerous autocab, limousine, and livery service companies to operate and to continue to operate for months and in some cases years, in and on the streets and highways of the City of Newark, despite their knowledge that such companies have not and were not complying with the requirements for such operations under the Newark Code, plaintiff, on or about June 26, 2008 timely filed Notices of Torts Claim Act with the defendants.

4. The actions and inactions of the of the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, despite their knowledge, were taken deliberately, willfully, knowingly, and intentionally, and caused and have caused plaintiff to be treated differently from other persons or entities who sought auto, limousine, and livery service licenses and Certificates of Compliance in order to operate auto,

limousine, and livery service companies in and on the streets and highways of Newark.

5. The acts and inactions of the municipal defendants constitute violations of the rights, privileges, immunities, and of the procedural and substantive rights of due process and of equal protection, privileges, and immunities guaranteed plaintiff under the federal and state constitutions, the federal laws, the laws of New Jersey.

6. As a direct and proximate result of the actions and inactions of the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, plaintiff has been harmed and suffered damages, and continues to be harmed and suffer damages in excess of forty million dollars, insofar as it has been discriminated against by the defendants and prevented from obtaining the necessary licenses to operate an autocab, limousine and livery service company on and in the streets and highways of the City of Newark.

7. The actions and inactions of the defendants, including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, have

caused and continue to cause the plaintiff serious and irreparable harm, have tortiously interfered with the plaintiff and its rights, interests, and economic and business status, and have deprived plaintiff of its rights and guarantees of procedural and substantive due process, equal protection, and privileges and immunities under the Constitution and laws of the United States of America, and under the Constitution and laws of the State of New Jersey.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants as follows:

1. Ordering each and all of the defendants, as the proper local authorities in the city of Newark, to issue cease and desist orders immediately to all non-complying autocab, limousine, and livery service companies operating in or on the streets of Newark;

2. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to revoke immediately any certificates of occupancy, whether temporary or permanent, as well as any licenses, permits, approvals, or any other Certificates of Compliance of operation for all autocab,

limousine, and livery services operating in Newark not in compliance with the Newark Code;

3. Appointing a monitor to supervise and oversee the operations of the TLC, Division, and Manager for 12 months, and the operations under Newark Code section 34:2-1 et seq. of the City Clerk for 12 months;

4. Granting compensatory, consequential, and punitive damages to plaintiff;

5. For attorney's fees and costs of suit;

6. For such other relief as may be deemed just and equitable.

### THIRD COUNT

1. Plaintiff repeats the allegations contained in the First and Second Counts of the Complaint, as if set forth at length herein.

2. The actions and in actions of the defendants including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, were



taken under color of state law, pursuant to established and articulated governmental policies and objectives, having resulted in harm to plaintiff.

3. As a direct and proximate result of these impermissible actions and inactions, the defendants's actions have had and continue to have the intended, foreseeable, and serious consequences of causing irreparable harm and damages to plaintiff and depriving plaintiff of its rights, privileges, and immunities guaranteed under the Constitution and laws of the United States, contrary to and in violation of 42 U.S.C. section 1983.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants as follows:

1. Ordering each and all of the defendants, as the proper local authorities in the city of Newark, to issue cease and desist orders immediately to all non-complying autocab, limousine, and livery service companies operating in or on the streets of Newark;

2. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to revoke

immediately any certificates of occupancy, whether temporary or permanent, as well as any licenses, permits, approvals, or any other Certificates of Compliance of operation for all autocab, limousine, and livery services operating in Newark not in compliance with the Newark Code;

3. Appointing a monitor to supervise and oversee the operations of the TLC, Division, and Manager for 12 months, and the operations under Newark Code section 34:2-1 et seq. of the City Clerk for 12 months;

4. Granting compensatory, consequential, and punitive damages to plaintiff;

5. For attorney's fees pursuant to 42 U.S.C. section 1988;

6. For costs of suit;

7. For such other relief as may be deemed just and equitable.

**FOURTH COUNT**

1. Plaintiff repeats the allegations contained in the First, Second, and Third Counts of the Complaint, as if set forth at length herein.

2. The actions and in actions of the defendants including the City, City Clerk, in his official capacity, the TLC, the Division, and the Manager in his official capacity, were taken in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq., and have deprived plaintiff of its rights and guarantees of procedural and substantive due process, equal protection, and privileges and immunities under the Constitution and laws of the United States of America, and under the Constitution and laws of the State of New Jersey.

WHEREFORE, Plaintiff demands judgment in its favor and against defendants as follows:

1. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to issue cease and desist orders immediately to all non-complying automobile, limousine, and livery service companies operating in or on the streets of Newark;

2. Ordering each and all of the defendants, as the proper local authorities in the City of Newark, to revoke immediately any certificates of occupancy, whether temporary or permanent, as well as any licenses, permits, approvals, or any other Certificates of Compliance of operation for all autocab, limousine, and livery services operating in Newark not in compliance with the Newark Code;

3. Appointing a monitor to supervise and oversee the operations of the TLC, Division, and Manager for 12 months, and the operations under Newark Code section 24:2-1 et seq. of the City Clerk for 12 months;

4. Granting compensatory, consequential, and punitive damages to plaintiff, under N.J.S.A. 10:6-2c;

5. Imposing a monetary civil penalty on defendants under N.J.S.A. 10:6-2e and 2c;

5. For attorney's fees pursuant to N.J.S.A. 10:6-2f;

6. For costs of suit;

7. For such other relief as may be deemed just and equitable.

DAY PITNEY LLP  
Attorneys for Plaintiff  
Jacob's Limousine  
Transportation, Inc.

By: Jeffrey Kantowitz  
Jeffrey Kantowitz

DATED: September 8, 2009

SEP 15 2009

CERTIFICATION UNDER RULE 4:5-1

Plaintiff, through its attorneys, hereby certifies that the subject matter of this complaint is not the subject of any other pending or contemplated litigation or arbitration proceeding, except to the extent that certain of the information upon which this complaint is based, is common to and has derived from a pending action titled Jacob's Limousine Transportation, Inc. v. City of Newark, et al., Docket No. ESX-L-1791-06, and plaintiff further certifies that it is not aware of any other party or parties who should be joined in this action, other than the parties who participated in the actions alleged.

DAY PITNEY LLP  
Attorneys for Plaintiff  
Jacob's Limousine  
Transportation, Inc.

By: Jeffrey Kantowitz  
Jeffrey Kantowitz

DATED: September 8, 2009

CERTIFICATION UNDER RULE 4:25-1

Plaintiff hereby designates Jeffrey Kantowitz, Esq., as  
trial counsel the captioned matter.

DAY PITNEY LLP  
Attorneys for Plaintiff  
Jacob's Limousine  
Transportation, Inc.

By: Jeffrey Kantowitz  
Jeffrey Kantowitz

DATED: September 8, 2009

SEP 15 2009

CLERK OF COURT  
JULY 15 2009



# **CIVIL CASE INFORMATION STATEMENT (CIS)**

Use for initial Law Division  
Civil Part pleadings (not motions) under Rule 4:5-1  
Pleading will be rejected for filing, under Rule 1:5-6(c),  
if information above the black bar is not completed or  
if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE CK CG CA

CHG/CK NO.

AMOUNT:

OVERPAYMENT

BATCH NUMBER

ATTORNEY/PRO SE NAME

Jeffrey Kantowitz, Esq.

TELEPHONE NUMBER

( 973 ) 966-8108

COUNTY OF VENUE

ESSEX

FIRM NAME (if applicable)

DAY PITNEY LLP

DOCKET NUMBER (When available)

OFFICE ADDRESS

(Mail To) PO Box 1945, Morristown, NJ 07962-1945  
(Delivery To) 200 Campus Drive, Florham Park, NJ 07932-0950

DOCUMENT TYPE

COMPLAINT

JURY DEMAND

☐ YES ☒ NO

NAME OF PARTY (e.g., John Doe, Plaintiff)

JACOB'S LIMOUSINE  
TRANSPORTATION, INC.

CAPTION

JACOB'S LIMOUSINE TRANSPORTATION, INC. v. CITY OF NEWARK,  
ET AL.

CASE TYPE NUMBER

(See reverse side for listing)

005

IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO

IF YOU HAVE CHECKED 'YES,' SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING  
YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT

RELATED CASES PENDING?

☐ YES ☒ NO \*

IF YES, LIST DOCKET NUMBERS

DO YOU ANTICIPATE ADDING  
ANY PARTIES (arising out of  
same transaction or occurrence)?

☐ YES ☒ NO

NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN

☐ NONE  
☒ UNKNOWN

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

DO PARTIES HAVE A CURRENT,

PAST OR RECURRENT

RELATIONSHIP? ☒ YES ☐ NO

IF YES, IS THAT

RELATIONSHIP

☐ EMPLOYER-EMPLOYEE☐ FAMILIAL☐ FRIEND/NEIGHBOR☐ BUSINESS☒ OTHER (explain)

DOES THE STATUTE GOVERNING THIS  
CASE PROVIDE FOR PAYMENT OF FEES  
BY THE LOSING PARTY?

☒ YES ☐ NO

USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED  
DISPOSITION

\* Case arises from some facts that are common to case titled Jacob's Limousine Transportation, Inc. v. City of Newark, et al.,  
Docket No. ESX-L-1791-06, See R. 4:5-1 Certification to Complaint. Nature of causes of action calls for earlier judicial  
management.

SEP 15 2009

DO YOU OR YOUR CLIENT NEED ANY  
DISABILITY ACCOMMODATIONS?
☐ YES ☒ NO
IF YES, PLEASE IDENTIFY THE  
REQUESTED ACCOMMODATION

WILL AN INTERPRETER BE NEEDED?

☐ YES ☒ NO

IF YES, FOR WHAT LANGUAGE

ATTORNEY SIGNATURE

Jeffrey Kantowitz

SIDE 2

CIVIL CASE INFORMATION STATEMENT  
(CIS)

Use for initial pleadings (not motions) under Rule 4-5.1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

## Track I — 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

## Track II — 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE - PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 699 TORT - OTHER

## Track III — 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

## Track IV — Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

## Mass Tort (Track IV)

- |                                       |                       |
|---------------------------------------|-----------------------|
| 241 TOBACCO                           | 275 ORTHO EVRA        |
| 248 CIBA GEIGY                        | 276 DEPO-PROVERA      |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 277 MAHWAH TOXIC DUMP |
| 271 ACCUTANE                          | 278 ZOMETHA/AREXIA    |
| 272 BEXTRA/CELEBREX                   | 601 ASBESTOS          |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 619 VIOXX             |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category.

☐ Verbal Threshold☐ Putative Class Action☐ Title 59